

Defendant and Counter-Plaintiff.

[illegible]

13 Civ. 1041 (LTS)

3. Annexed hereto as Exhibit 6 are excerpts from a recent MJSA Buyer's Guide. Page 170 of the MJSA Buyer's Guide lists twenty (20) different suppliers under the category "TIFFANY SETTINGS". The MJSA Buyer's Guide also lists suppliers of other commonly used types of ring settings including "BEZEL SETTINGS" and "PAVÉ SETTINGS".

4. Annexed hereto as Exhibit 7 are excerpts from a recent catalogue distributed by Stuller, Inc. Stuller is one of the suppliers of Tiffany settings listed in the MJSA Buyer's Guide. The Stuller catalogue uses the word Tiffany in its dictionary definition sense to refer to a style or type of pronged ring setting.

5. Reproduced below in enlarged form, with explanatory labels added, is an in-store jewelry case display sign that Costco used in 2012:



6. Each of the words or terms used in the above sign refers to a feature of a ring being offered for sale. The word "PLATINUM" refers to the type of metal that the ring's band is made of. The word "TIFFANY" refers to the type or style of setting that the ring has. The term "VS2" is a grade that refers to the clarity of the gemstone that a ring has ("VS" stands for "very slightly included," the word "included" here meaning flaws or blemishes in a stone.). The letter "I" is a grade that refers to the color of the gemstone that a ring has. The term "1.00 CT" refers to the carat weight of the gemstone that a ring has. The phrase "ROUND BRILLIANT" refers to the cut of the ring's gemstone. The word "DIAMOND" refers to the type of gemstone that the ring has. The word "SOLITAIRE" refers to a type or style of ring; the word "solitaire" in this context indicates that the ring has a single gemstone. The word "RING" refers to the type of product being displayed.

7. Information presented in signs like the one reproduced above, including setting style information, is generally taken from vendor quote sheets that Costco receives from vendors. An example of such a quote sheet (with confidential information blacked out) is annexed hereto as Exhibit 8. Space constraints limit the jewelry case display signs to a maximum of three (3) lines of not more than 22 characters each. Rings identified by signs like the one reproduced above are sourced from various vendors, and are not marketed or sold as originating with any particular manufacturer, although by law, gold and silver rings do bear a manufacturer's mark on their inside surfaces. Annexed hereto as Exhibit 9 are images of inner and outer boxes and documentation typical of what Costco provides to members who bought diamond rings identified by signs like the one reproduced above.

8. Annexed hereto as Exhibit 10 are examples of Costco web pages which used the word Tiffany in its dictionary definition sense to indicate that a ring has a Tiffany setting. I believe that other similar web pages have been displayed by Costco from time to time.

9. Annexed hereto as Exhibit 11 are excerpts from a publication entitled *The Jewelers' Manual* depicting different types of ring settings and identifying them by their common names, one of which is Tiffany. Costco in-store jewelry case display signs for diamond rings often use setting style names. For example, Exhibit 12 is a photograph depicting a Costco display sign in which the word "HALO" indicates the setting style name.

I, HARJIT GREWALL, hereby declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: May 3, 2013

A handwritten signature in dark ink, appearing to read "Harjit Grewall", is written over a horizontal line.